

REMARKS

In the outstanding Official Action, claims 9-11 and 13-16 were rejected under 35 U.S.C. §103(a) over ANDERSON (U.S. Patent No. 6,169,575, designated herein as "ANDERSON I") in view of ANDERSON (U.S. Patent No. 6,683,649, designated herein as "ANDERSON II"). Claim 12 was rejected under 35 U.S.C. §103(a) over ANDERSON I, in view of ANDERSON II, and further in view of ANDERSON (U.S. Patent No. 6,249,316, designated herein as "ANDERSON III").

Upon entry of the present amendment, independent claims 9 and 15 will have been amended to include features similar to the features previously recited in claim 11. Claim 11 will have been cancelled without prejudice to or disclaimer of the subject matter recited therein. Applicant respectfully submits that the combinations of claims 9 and 15, which include at least the above-noted features, are not disclosed, suggested or rendered obvious by the documents applied in the Official Action. However, the amendments to claims 9 and 15 should not be considered an indication of Applicant's acquiescence with the propriety of the rejections. Rather, Applicant has amended the claims of the present application merely in order to clarify the features of the claimed invention, as well as to obtain early allowance of claims in the present application.

Applicant traverses the rejection of claims 9-11 and 13-16 under 35 U.S.C. §103(a) over ANDERSON I in view of ANDERSON II, as well as the rejection of claim 12 under 35 U.S.C. §103(a) over ANDERSON I in view of ANDERSON II, and further in view of ANDERSON III. In this regard, Applicant respectfully submits that each of

claims 9-10 and 12-16 recite a combination of features which are not disclosed, suggested, or rendered obvious by any proper combination of ANDERSON I and ANDERSON II alone, or in further combination with ANDERSON III.

By the present amendment, claims 9 and 15 have been amended to include features similar to the features previously recited in claim 11. In this regard, amended claim 9 recites "an image processor that continually reproduces said plurality of discrete images, as a common operation on said plurality of discrete images, at a same interval as that of said continual still image photographing operation, when it is determined, using said unique indicator, that said plurality of discrete images were obtained in said continual still image photographing operation". Applicant respectfully submits that the combination of claim 9 which includes the above-noted feature is not disclosed or suggested by ANDERSON I, or even by any proper combination of ANDERSON I, ANDERSON II and ANDERSON III.

In this regard, the outstanding Official Action acknowledges that the above-noted features are not disclosed or suggested by ANDERSON I or ANDERSON II. However, the outstanding Official Action asserts that "Official Notice is given that it would have been obvious to one of ordinary skill in the art at the time of the invention to continually reproduce the plurality of discrete images as the common operation at a same interval as that of said continual still image photographing operation in order to reproduce the images in real time, i.e., to play the image sequence as it occurred in time, neither faster nor slower than the rate at which the original image sequence was captured".

Applicant respectfully submits that the above-noted taking of "Official Notice" is improper. As set forth in the Manual of Patent Examining Procedure at 2144.03,

"Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known". However, the implicit acknowledgment in the Official Action that none of the three documents applied therein discloses the above-noted feature evidences that, in the context of the invention recited in claims 9 and 15, these features are not "well-known" or "common knowledge in the art... capable of instant and unquestionable demonstration as being well-known". Accordingly, Applicant submits that the taking of Official Notice is improper in the outstanding Official Action.

Accordingly, if the rejection of claims over any combination of ANDERSON I, ANDERSON II and/or ANDERSON III is maintained, Applicant respectfully requests that the Examiner provide evidence of common knowledge (i.e., capable of instant and unquestionable demonstration) in the art of the above-noted feature recited in amended claims 9 and 15, as well as evidence that it would be obvious to provide such a feature to modify any document applied in a rejection of claims in the present application. Absent such a showing, Applicant respectfully submits that the taking of Official Notice with respect to the features previously recited in claim 11 is inappropriate.

The outstanding Official Action asserts that the '575 patent discloses "a memory that stores... for each of a plurality of discrete images sequentially obtained in a continual still image photographing operation in which the plurality of discrete images are taken at an interval time set by an operator, a unique indicator that indicates whether said discrete image was sequentially recorded in the continual still image photographing operation". If the rejection of claims over the '575 patent is maintained,

Applicant respectfully requests an explanation as to which of the features of the '575 patent is believed to disclose the above-noted "plurality of discrete images sequentially obtained in a continual still image photographing operation... at an interval time set by an operator" recited in claim 9, as well as an explanation as to why such a feature in the '575 patent is believed to disclose the above-noted features recited in Applicant's claims. In this regard, the '575 patent merely distinguishes between "time-lapse" images and "burst" images (see, e.g., col. 1, lines 36-52).

Additionally, the '575 patent discloses identification data for each stored image. If the rejection of claims over the '575 patent is maintained, Applicant requests an explanation as to which teachings of the '575 patent is believed to disclose the above noted "unique indicator" as recited in claim 9, as well as an explanation as to why such a feature in the '575 patent is believed to disclose such a feature.

Applicant further submits that the outstanding Official Action does not cite a proper motivation to modify the '575 document to obtain the invention recited in Applicant's claims. In this regard, the object of the '575 document is to provide "easily identifiable image groups of related images, including user-created groups". However, none of the modifications to the '575 document proposed by the Examiner would appear to contribute to this objective. Accordingly, for each modification to the '575 document that is acknowledged to be necessary to obtain the invention recited in Applicant's claims, Applicant respectfully requests an explanation of a proper motivation in the prior art to perform such modification to the '575 document. In the absence of such an explanation of proper motivation to modify the '575 document, Applicant submits that no proper motivation exists to modify the '575 document in the manner

necessary to obtain the invention recited in Applicant's claims. Rather, the only motivation to modify the '575 document in the manner necessary to obtain Applicant's claims is the improper motivation of the Examiner to obtain Applicant's claimed invention in hindsight.

Accordingly, Applicant respectfully request reconsideration and withdrawal of the rejection of independent claims 9 and 15, at least for each of the reasons set forth above. Applicant further requests an indication of the allowability of each of claims 10, 12-14 and 16 at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection of claims 9-16, as well as an indication of the allowability of each of the claims now pending, in view of the herein contained amendments and remarks.

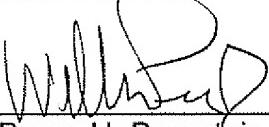
CONCLUSION

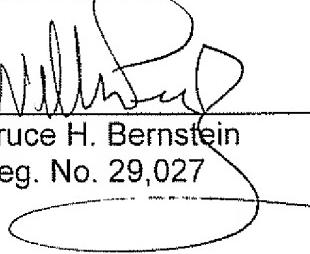
Applicant has made a sincere effort to place the present application in condition for allowance, and believes that he has now done so. Applicant has amended the independent claims for consideration by the Examiner. Furthermore, Applicant has discussed the features recited in Applicant's claims and has shown how these features are neither taught, disclosed nor rendered obvious by any proper combination of the documents cited in the Final Official Action.

Any amendments made herein, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed number.

Respectfully submitted,  
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